IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 297 of 2005

Between:

M/s Quadri and Quadri Constructions, Dargah Shah Kamoosh, New Agapura, rep. by Managing Partner Mohd. Allauddin Quadri S/o Najmuddin Quadri, aged 72 yrs, r/o H.No. 5-6-640, Dargah Shah Kamoosh, New Agapura, Hyderabad.

..... PETITIONER

AND

1 State of Andhra Pradesh, rep. by Principal Secretary to Government (Home), General-B Department, Secretariat Buildings, Hyderabad.
2 Additional Director General of Police -cum- Competent Authority, CID, Hyderabad.
3 The Person-in-Charge, Charminar Co-operative Urban Bank Limited, Hyderabad.
4 Sri D. Ram Sudhakar, S/o D.R.K. Ranga Rao, R/o 1-1-610/8, Gandhinagar, Hyderabad.
5 Feroz Sahela, r/o Flat No. 201, Ashiyana Apartments, King Kothi Road, Hyderabad.
6 Sri Yakoob, Near Nasr School, Rajbhavan Road, Khairatabad, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus, declaring that G.O. Ms. No. 135 Home (General-B) Department dt. 21-5-2002 purporting to be issued under section 3 of A.P. Protection of Depositors of Financial Establishment Act, 1999 (Act No. 17 of 1999) as being illegal without jurisdiction in respect of Janardhan Arcade bearing Municipal Door No. 11-5-152/5 and 11-5-152/5/B , Red Hills, Hyderabad and pass such other order or orders

Counsel for the Petitioner: MRSYED SHAREEF AHMED

Counsel for the Respondents 1 and 2: GP FOR HOME

Counsel for the Respondent No. 3: Mr. N. Ram Mohan Rao

Counsel for the Respondent Nos. 4 & 5: Mr. N. Ramachandra Rao
Counsel for the Respondent No. 6: Mr. B. Vijayasen Reddy.

The Court at the stage of admission made the following :

***ORAL ORDER*:**

Heard both sides. Perused the material placed before me.

Petitioner seeks a writ of mandamus declaring that GO Ms. No. 139 Home (General-B) Department, dated 21.5.2002 purporting to be issued under Section 3 of A.P. Protection of Depositors of Financial Establishment Act, 1999 (Act 17 of 1999) as illegal and without jurisdiction in respect of Janardhan Arcade bearing Municipal Door No. 11-5-152/5 and 11-5-152/5/B, Red Hills, Hyderabad.

Petitioner is a construction contractor in the disputed land to which third respondent appears to have advanced funds for the purpose of construction in favour of fourth respondent who is said to be the builder.

Who is the real owner is not clearly known from the averments made in the affidavit filed in support of the writ petition. However, there appears to be some dispute between the alleged owner by name Janardhan and the legal representatives and the developer-fourth respondent. Sixth respondent is impleaded as a party to the writ petition with no explicit reasons. As alleged by the petitioner, sixth respondent is only a purchaser of the flat in the construction being undertaken by the petitioner. The petitioner now calls him as a trespasser. Again reasons for calling him as a trespasser are also not known. The whole transaction as between the petitioner, 4th respondent and respondents 5 and 6 and the advancement of the funds by the third respondent-Bank appears to be very vague and all the questions and the rights of the parties *inter-se* are pure questions of fact, which this court cannot go into nor record any decision in this

writ petition. In other words, the entire controversy requires more clarity on facts, for which, the right forum, in my considered view, is a competent Civil Court for any of the parties to the writ petition who have redressal.

Accordingly, the writ petition is dismissed as devoid of any merit, however, with a liberty to all the parties including the petitioner to approach the competent Civil court for appropriate relief. No costs.

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kvsn 28-03-2005

To

1 State of Andhra Pradesh, rep. by Principal Secretary to Government (Home), General-B Department, Secretariat Buildings, Hyderabad.

2 Additional Director General of Police -cum- Competent Authority, CID, Hyderabad.

3 The Person-in-Charge, Charminar Co-operative Urban Bank Limited, Hyderabad.

4 Two CCs to GP for Home, High Court buildings, Hyderabad.

5 Two CD copies.